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**Testimony on behalf of Public Service Commission**  
**Bill Gallagher, Chairman (phone 444-6169)**  
**In opposition of Senate Bill 423**  
March 25, 2011

Mr. Chairman and Members of the Committee,

The Public Service Commission voted 5 to 0 to oppose Senate Bill 423. The reason expressed by a majority of commissioners for its opposition is that the PSC is not the appropriate agency to assume the role of the state licensing authority. The Commission has a full plate of utility regulatory issues with numerous important cases either before us now or expected in the near future. Adding the role of state licensing authority as contemplated under this bill would distract the agency from its core mission. But if the legislature determines, despite our opposition, that the PSC is the appropriate agency, we have identified the following concerns with the bill as written:

- The courier delivery system is problematic. States are preempted by federal law from regulating motor carriers of property. If therapeutic marijuana is property under the eyes of the federal government, we cannot regulate the transportation of therapeutic marijuana.
- The bill lacks specific standards for granting licenses, such as need. We suggest it might be possible to pattern the grants of licenses after the certification process we use for motor carriers.
- The uncertainties surrounding the number of registered cardholders who will remain and be added once the bill takes effect makes it impossible to estimate with any accuracy what the PSC's costs would be for administering the licensing authority responsibilities.
- PSC funding during ramp-up of the program is a concern, especially since it would not be appropriate for utility ratepayers, from whom regulated utilities recover their PSC funding fees, to foot the bill for any part of this new program. Moreover, if program fees are initially limited to therapeutic marijuana, there will be a lag between PSC incurring costs and assessment and recovery of the fees. This will be true in the second year also because any leftover funds must be

returned to the general fund under the current bill. We propose SB 423 provide for funding the new program out of the general fund, at least for the first biennium.

- Although licensed growers and products manufacturers would be nonprofit organizations under the bill, there is no limit on compensation for the owners and managers of those entities. Perhaps there should be.

- Page, 13, Section 10, lines 8-16: This list of who can cultivate or manufacture therapeutic marijuana includes registered cardholders, growers and products manufacturers, but does not include personal production assistants. Should the list include personal production assistants?

- Page 18, Section 18, line 14, and page 19, line 10: These provisions both say that the PSC may impose finest and penalties pursuant to law or rule. However, the bill is not specific as to whether the PSC must go to district court to collect a fine as is required in Title 69 and is also not specific as to how much a PSC fine may be.

- Page 18, Section 17, lines 17-19: This provision requires the PSC to adopt rules, rulings and findings as necessary “for the proper regulation and control ... and for the enforcement of sections 1 through 40.” Sections 1 through 40 include the DPHHS cardholder sections. Is the PSC responsible for enforcement of the law as it pertains to cardholders?

- Page 46, line 22: This section says that a licensee or registrant must surrender his license or registration if he is convicted or pleads guilty to DUI under certain circumstances. The court then must forward the surrendered license or registration and a copy of the conviction to the Department of Revenue. Should that be the PSC?

The PSC recommends a DO NOT PASS on SB 423. Thank you for the opportunity to testify.